IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

WP(C).No. 6107 of 2007(B)

PETITIONER:

THE MANAGER, CHERUMOTH L.P.SCHOOL,
POST CHERUMOTH,(VIA)VALAYAM, VADAKARA TALUK,
KOZHIKODE DISTRICT, KERALA STATE.

BY ADV. SRI.B.KRISHNAN
SRI.R.PARTHASARATHY

RESPONDENTS:

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1. STATE OF KERALA WITH ADDRESS FOR SERVICE
SECRETARY, DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. THE SECRETARY, DEPARTMENT OF EDUCATION,
GOVT. OF KERALA, THIRUVANANTHAPURAM.

3. A.KUNHIRAMAN, CHERUMOTH L.P.SCHOOL,
POST CHERUMOTH, (VIA)VALAYAM,VADAKARA TALUK,
KOZHIKODE DISTRICT.

4. THE ADDITIONAL DIRECTOR OF PUBLIC
INSTRUCTIONS(GENERAL), THIRUVANANTHAPURAM.

5. THE DISTRICT EDUCATIONAL OFFICER,
VADAKARA.

6. THE ASSISTANT EDUCATIONAL OFFICER,
NADAPURAM.

R3 BY ADV. SRI.BABU JOSEPH KURUVATHAZHA
SRI.C.P.SIVADASAN NAIR
R1, 2 & 4 TO 6 BY GOVT. PLADER SRI. A.J. VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/03/2007, ALONG WITH WPC.10106/07, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 6107 OF 2007.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : TRUE COPY OF THE LETTER DATED 4.1.2006 ADDRESSED TO THE 2ND RESPONDENT BY THE 3RD RESPONDENT.

EXT. P2 : TRUE COPY OF THE JUDGMENT IN W.P.(C) 1005/2006 DATED 8.2.2006 OF THIS HON'BLE COURT.

EXT. P3 : TRUE COPY OF THE PROCEEDINGS DATED 22.5.2006 OF THE 2ND RESPONDENT.

EXT. P4 : TRUE COPY OF THE JUDGMENT IN W.P.(C) 16116/2006 DATED 20.7.2006.

EXT. P5 : TRUE COPY OF THE PROCEEDINGS OF THE DEPUTY DIRECTOR OF EDUCATION, KOZHIKODE NO.B3/9124/K.DIS. DATED 28.9.2006.

EXT. P6 : TRUE COPY OF THE PROCEEDINGS 4/2006 DATED 5.10.2006.

EXT. P7 : TRUE COPY OF THE ORDER OF THE PROCEEDINGS OF THE 4TH RESPONDENT DATED 19.1.2007 (ORDER NO.VI/68363/2006/DPI).

K.M.JOSEPH, J.

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WP.(C) Nos.6107 &10106/2007

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Dated this the 27th day of March, 2007

JUDGMENT

Petitioner in W.P.(C) 6107 of 2007 is the Manager. Manager challenges Ext.P7 order. Ext.P7 is an order passed by the Additional Director of Public Instruction, as per which it is ordered that Sri. Kunhiraman, HM, who is the writ petitioner in W.P.(C). 10106 of 2007 is treated as reinstated in service with effect from the date of Government Order dated 22.5.2006 and the salary for the period from 22.5.2006 to the date of actual reinstatement will be fixed as liability of the Manager. Deputy Director of Education, Kozhikode is directed to realise the amount from the Manager and facts reported by return. The very same order is also sought to be quashed by the Headmaster in the other writ petition. Headmaster has preferred Ext.P18 Ext.P18 purporting to be a revision petition under Rule 92. Ext.P7 in W.P.(C) 6107 of 2007 is apparently an order against which revision lies under Rule 92 of Chapter XIVA KER. In such circumstances the parties should be relegated to the alternate remedy available.

Accordingly the writ petitions are disposed of as follows:

If the petitioner in W.P.(C) 6107 of 2007 files a revision against Ext.P7 under Rule 92 within a period of three weeks from today, the first respondent will consider and take a decision on the same in accordance with law after hearing the petitioners in both the cases and take a decision within a period of six weeks from the date of receipt of the revision petition.

Likewise W.P.(C) 10106 of 2007 is disposed of directing the second respondent therein to consider and take a decision on Ext.P18 in accordance with law, naturally, after hearing the petitioners in both the writ petitions. In view of the fact that the question is connected, revisional authority will hear the revisions together and take a decision as aforesaid. Counsel for the Headmaster submits that the Headmaster will not move for implementation of the direction to recover the amount from the Manager. However, in case there is any such attempt made for recovery pursuant to the impugned order, it is open to the Manager to seek interim relief before the State of Kerala and the revisional authority will proceed to pass appropriate orders within one

week from the date of filing of the application.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.